

APPENDIX.

I.

In Memoriam.

SAMUEL BLATCHFORD, LL.D.

Mr. Justice Blatchford died at Newport, Rhode Island, on the 7th day of July, 1893.

On Friday, the 13th of October, 1893, the bar of the Supreme Court of the United States and the officers of the court met in the court room at the Capitol.

On motion of Mr. George F. Edmunds, Mr. Joseph H. Choate of New York was called to the chair, and Mr. James Hall McKenney, the Clerk of the Court, was invited to act as the Secretary of the meeting.

Mr. Choate, on taking the chair, addressed the meeting.

On motion of Mr. Julien T. Davies of New York, it was voted to appoint a committee to prepare and report resolutions for consideration. Mr. Julien T. Davies, Chairman, Mr. George F. Edmunds, Mr. Walter D. Davidge, Mr. George F. Hoar, Mr. J. M. Wilson, Mr. William A. Maury, Mr. Solomon Claypool, Mr. Solicitor General, and Mr. Calderon Carlisle were appointed as such committee. They reported the following resolutions:

Mr. Justice Blatchford has closed a judicial career of over twenty-five years. Appointed in 1867 to the bench, as District Judge for the southern district of New York, he brought to the discharge of his judicial duties capacity for labor and habits of exhaustive research acquired during his experience for nine years at the bar in the quiet town of Auburn, together with the qualities of promptness in dispatch of business and quickness of apprehension, that had been cultivated by thirteen years of active practice in the city of New York. His labors as District Judge will live in the shape and form that the law of bankruptcy and of admiralty received from his judicial hand. Later, from 1872 to 1882, as

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Circuit Judge, the law of patents especially owes much in its development to his patient research and faithful exposition. Appointed to the bench of the Supreme Court of the United States in 1882, he brought to the discharge of his high duties an intellect trained and disciplined by his former labors in directions especially adapted to increase his usefulness in his new sphere. In this great tribunal he was distinguished, as theretofore, for his careful study of his cases, his patient and full statements of facts, and his learned and luminous expositions of the law. Always he wrought to the full measure of his strength. He gave to the service of his chosen profession and of his country all that was best of himself. He concentrated all his energies upon his judicial duties. Neither pleasure nor change of mental occupation had much charm for him. His life work was the discharge of the functions of a judge, and all his powers were concentrated to this lofty end.

Resolved, That in the death of Mr. Justice Blatchford, his friends have lost a kind and amiable companion, his profession a conscientious and earnest brother, the Supreme Court of the United States a faithful, able, and industrious member, and the people of these United States an honest judge.

Resolved, That the Attorney General be requested to lay this minute and these resolutions before the court, and to ask that they be spread upon the record.

Resolved, That the chairman be requested to transmit a copy of them to the family of Mr. Justice Blatchford.

After appropriate remarks by Mr. Julien T. Davies, Mr. William A. Maury, and Mr. Calderon Carlisle, the meeting was dissolved.

On Monday, the 13th of November, 1893, the Attorney General, in compliance with the request of the meeting of the bar, addressed the court as follows:

The bar, may it please the court, have requested me to present the resolutions lately adopted by them upon the occasion of the death of Mr. Justice Blatchford. They are as follows [the Attorney General then read the resolutions, and continued]:

These resolutions — as I am sure the court will agree — justly estimate and express the loss sustained, not merely by the judiciary, not merely by the profession, but by the entire community as well. It does not follow that the community is necessarily or even probably sensible of its loss. Judge Blatchford bore his

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high honors so meekly, fulfilled his important functions so quietly and unostentatiously, as to attract to himself but slight notice from the public he so faithfully served. Nothing, indeed, was more alien to his thoroughly genuine nature than the mere trappings of office, than the notoriety and conspicuousness which, in these days of the interviewer and the illustrated daily press, so easily become the inseparable attendants of high station. Judge Blatchford was the model of a competent, well-trained, laborious, conscientious, and, above all, modest, public servant. It is not given to every man to be instinct with true genius, to exult in acknowledged intellectual superiority, to be chief among the chiefs of his chosen calling. Such men are rare, and their examples as often provoke despair as excite to emulation. But to every man it is given to make the most of the faculties that he has, to cultivate them with unflagging diligence, to make sure that they deteriorate neither from misuse nor disuse, but continue in ever growing strength and efficiency, until the inevitable access of years and infirmities inexorably bars all further progress. By such means alone, without the aid of any transcendent powers, it is astonishing to what heights men have climbed, what conquests they have made, and what laurels they have won. Judge Blatchford would have been the last to claim for himself those extraordinary gifts which have made some men seem to be called the giants of the law. But he had tireless industry, persistent application, a determination to work the powers he possessed to their utmost capacity, and the result is now seen in an honorable judicial career on the bench of the highest court of the country, and in an example full of encouragement and promise for every ambitious and struggling spirit. If it be asked what was Judge Blatchford's chief characteristic as a judge, it may be said to consist in the strictly business quality of his work. By that I do not merely mean that he was specially conversant with the multifarious affairs of trade, as daily transacted in the commercial centres of the world, and dealt with the questions arising out of them with peculiar intelligence and skill. No less could be expected of one who came to the bench from a successful practice in the commercial metropolis of the country. But his judicial work was businesslike, in that its sole aim was the right determination of the particular case in hand. He never made its decision an occasion for philosophic disquisition. He never undertook by an

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opinion in one case to settle principles for other anticipated cases. He never indulged in "large discourse looking before and after," much less in any flights of rhetoric. It satisfied his idea of judicial duty that the controversy before him was settled aright by the application of a rule of law broad enough to cover that case. Thus, if he was not brilliant, he was safe; if he did not make large contributions to the science of jurisprudence, he won respect for the law and its administration by the uniform righteousness of the results reached in actual causes. It must add to our admiration of Judge Blatchford that he toiled assiduously, both at the bar and on the bench, not from necessity, but from choice; that the allurements of an ample fortune neither belittled his aims nor benumbed his energies, and that in his hands wealth was but the supplement and aid to an industry and zeal rarely excelled even under the spur of poverty. His orderly, prosperous, and placid career, notable in itself, is even more so by contrast with that of his colleague on the bench whose death preceded his own by only a few months. Judge Blatchford rose to the highest of professional honors by unswervingly treading the beaten path of the law and by a regularly-graduated ascent, every stage of which, from country lawyer to city lawyer, from district judge to circuit judge, and from circuit judge to judge of the Supreme Court, was in natural and logical succession. Mr. Justice Lamar, on the other hand, was called to the like honors after a career of extraordinary vicissitudes, in which the life of the camp and the battlefield alternated with that of the forum and the hustings; almost without probation as a legal practitioner, but with a thorough theoretical and practical knowledge of great affairs of State and with a well-earned national renown as an orator, statesman, and leader of men. And nothing could better illustrate the wide scope and variety of the functions of this high tribunal than the fact that, notwithstanding their wholly diverse training and experience, each of them found here a fitting field for his own peculiar gifts and attainments, and each in his own line proved himself an accession and an ornament to the bench. I have the honor to ask that the resolutions of the bar be spread upon the records of the court.

The Chief Justice responded:

To Mr. Justice Blatchford the discharge of duty was an impulse, and toil a habit; and since to thorough training as a scholar

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and in professional practice, a wide and varied knowledge of the law, a keen and discriminating intellect, and an indomitable patience, he added "the transcendent capacity of taking trouble," the volume and extent of the work he was enabled to accomplish during twenty-six years of judicial life should occasion no surprise.

If his death admonishes us of the swiftness of the passage of time, his example teaches, through the results of the orderly method which regulated his every action, how time may be redeemed.

Mr. Justice Blatchford was at home in every branch of the jurisdiction of the courts in which he sat. It is not easy to distinguish, where all was done so well, but it may be justly said that he displayed uncommon aptitude in the administration of the maritime law and of the law of patents, his grasp upon the original principles of the one and his mastery of details in the other aiding him in largely contributing to the development of both. His experience in adjudication and in affairs bore abundant fruit during his incumbency of a seat upon this bench, and in the domain of constitutional investigation and exposition he won new laurels.

As suggested by the Attorney General, he did not attempt in his judgments to "bestow conclusions on after-generations," yet when the four hundred and thirty opinions, to be precise as he would have been, in which he spoke for the court, contained in the volumes of our reports from the latter part of the one hundred and fifth to the close of the one hundred and forty-ninth, are examined, it will be found that he dealt with large questions, in many of them, with a breadth and luminousness of treatment, and at the same time with a circumspection and sagacity, which entitle them to high rank as judicial compositions, and will make them monuments to be seen hereafter of those concerned in looking about them for guidance in the present by the wisdom of the past.

And, as rightly indicated in the thoughtful tributes paid to him to-day, the memory of this conscientious and faithful public servant will be perpetuated, not through his decisions alone, but in the profound conviction, the contemplation of his career will ever produce, that he kept, to use the language of another, the great picture of the useful and distinguished judge "constantly before his eyes, and to a resemblance of which all his efforts, all his thoughts, all his life were devoted."

Upon the loss to us personally in parting with this beloved friend and helpful fellow-laborer we do not care to dwell. We

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take up our burdens again, conscious of the absence of the relief his participation would have afforded, but feeling as to him the truthfulness of the thought: "Above all, believe it, the sweetest canticle is *Nunc Dimittis*, when a man hath obtained worthy ends and expectations."

The minute and resolutions of the bar and the remarks of the Attorney General will be entered on our records, and as a further mark of respect the court will adjourn until to-morrow at the usual hour.

II.

AMENDMENT TO RULES.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1893.

It is ordered that clause 6 of Rule 21 be, and it is, amended by substituting therefor the following:

6. When no oral argument is made for one of the parties, only one counsel will be heard for the adverse party.

(Promulgated December 11, 1893.)

III.

ASSIGNMENT TO CIRCUITS.

SUPREME COURT OF THE UNITED STATES.

IN VACATION.

It is ordered that the following allotment be made of the Chief Justice and Associate Justices of this court among the circuits, agreeably to the act of Congress in such case made and provided, and that such allotment be entered of record, viz.:

For the First Circuit, HORACE GRAY, Associate Justice.
For the Second Circuit, HORACE GRAY, Associate Justice.
For the Third Circuit, GEORGE SHIRAS, JR., Associate Justice.
For the Fourth Circuit, MELVILLE W. FULLER, Chief Justice.
For the Fifth Circuit, HOWELL E. JACKSON, Associate Justice.
For the Sixth Circuit, HENRY B. BROWN, Associate Justice.
For the Seventh Circuit, MELVILLE W. FULLER, Chief Justice.
For the Eighth Circuit, DAVID J. BREWER, Associate Justice.
For the Ninth Circuit, STEPHEN J. FIELD, Associate Justice.

July 15, 1893.

(Signed) MELVILLE W. FULLER,
Chief Justice of the United States.